

### **REMARKS**

In the Office Action mailed November 28, 2007, the Examiner noted that claims 1-3, 5-7 and 10 were pending; rejected claims 1-3 and 5-7 under 35 U.S.C. § 102(e) as being anticipated by Ando et al. (U.S. Patent No. 6,782,189); and rejected claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Ando et al. in view of Official Notice. New claim 11 is added. Thus, claims 1-3, 5-7, 10 and 11 are currently pending. The rejections are traversed below.

#### **Rejection under 35 U.S.C. § 102**

Claims 1-3 and 5-7 are rejected under 35 U.S.C. § 102(e) as being anticipated by Ando et al. (U.S. Patent No. 6, 782,189).

Claim 1 is amended herein to recite:

extracting information, which is to be referenced in reproducing the program data, from the program data, the extracted information including information associated with an I-picture that is extracted by:  
                    searching a transport stream (TS) for the I-picture, and  
                    saving a start disk packet point and TS packet point if a current TS packet is related to the I-picture

(Lines 3-8). Claim 5 is amended to recite somewhat similar features. The Applicant respectfully submits that Ando et al. fails to disclose the above features.

Ando et al. discusses "a data structure of management information, and a recording method and playback method of the same, which make time management of stream data using time stamp data recorded in the stream data" (column 2, lines 39-42). "[I]nformation (time relationship table; or playback time stamp list PTSL)" is used to indicate that "the relationship between time stamp data (application time stamp ATS) recorded in stream data, and display time information (PTS or field information) for the user is provided to a portion of management information (stream file information table SFIT)" (see column 2, lines 47-54, of Ando et al.). Ando et al. further discusses "the internal structure of [a] stream block header", where "[t]he number 631 of transport packets in FIG. 9(d) can include I-picture mapping table 641" (see column 14, lines 20 and 21 and column 15, lines 1 and 2 and Fig. 9(e)).

The Office Action states on page 9 that Ando et al. discloses "location information of an I-picture (fig. 9)." However, Ando et al. merely discusses that an "I-picture mapping table 641" may be included in the "number 631 of transport packets" illustrated in Fig. 9. Ando et al. is

silent as to “searching a transport stream (TS) for the I-picture” and “saving a start disk packet point and TS packet point if a current TS packet is related to the I-picture” as recited in claim 1. Thus, Ando et al. fails to anticipate amended claim 1 under 35 U.S.C. § 102(e).

Claims 2, 3, 6 and 7 depend from claim 1 or 5 and add further features thereto. Thus, the arguments above with respect to claim 1 also apply to these claims.

For at least the reasons above, it is respectfully submitted that the rejection is overcome.

### **Rejection under 35 U.S.C. § 103**

Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ando et al. in view of Official Notice.

Claim 10 depends from claim 5 and adds further features thereto. Thus, the arguments above with respect to claim 5 also apply to these claims.

Further, the Applicant respectfully submits that the Examiner’s application of Official Notice is improper here. “[S]uch rejections should be judiciously applied.” See MPEP § 2144.03. “Official notice without documentary evidence to support an [E]xaminer’s conclusion is permissible only in some circumstances.” See MPEP § 2144.03(A). It is “never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principle evidence upon which a rejection was based.” See *Id.*

Here, common knowledge is the principle evidence that the Examiner uses to reject the features of claim 10, namely, that it is common knowledge to use a “hard disc drive” as a “storage device” in the context of the claimed invention. The cited art provides no teaching or suggestion of this feature and there is no evidentiary support in the record for application of Official Notice. The legal standard for applying Official Notice under MPEP § 2144.03 is rigorous, and the Applicant respectfully submits that the present application of Official Notice falls short of meeting this high standard.

For at least the reasons above, it is respectfully submitted that the rejection is overcome.

### **New Claim**

New claim 11 is added herein. Support for the claim is found, for example, in paragraphs [0034]-[0038] of the specification. Claim 11 recites:

extracting information from program data to be referenced during reproduction of the program data, the extracted information including information associated with an I-picture that is extracted by searching a TS stream for the I-picture and saving a start disk packet point and TS packet point if a current TS packet is related to the I-picture

(Lines 2-5). As discussed above with respect to claim 1, Ando et al. fails to disclose "searching a TS stream for a picture start code and saving a start disk packet point and TS packet point if a current TS packet is related to the I-picture". Thus, new claim 11 also patentably distinguishes over the cited art.

### Summary

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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